

Notice of Allowability

Application No.

09/704,508

Examiner

Tom Y. Lu

Applicant(s)

HEWITT ET AL.

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 11/18/2004.
2. ☒ The allowed claim(s) is/are 1,2,4-7 and 11-14.
3. ☒ The drawings filed on 26 February 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

JOSE L. COUS
PRIMARY EXAMINER

DETAILED ACTION

Response to Amendment

1. Request for Continued Examination filed on 03/25/2005 has been entered.
2. Upon entry of Request for Continued Examination, the amendment filed on 11/18/2004 has been entered.
3. Claims 3 and 8-10 have been cancelled.
4. Claims 1 and 12 have been amended.
5. Claims 1-2, 4-7 and 11-14 are pending.

Response to Arguments

6. Applicant's arguments, see Remarks, Pages 5-7, filed on 11/18/2004, with respect to claims 1 and 12 have been fully considered and are persuasive. The rejection of claims 1 and 12 has been withdrawn.

Allowable Subject Matter

7. Claims 1-2, 4-7 and 11-14 are allowed.

The following is an examiner's statement of reasons for allowance:

- a. Independent claims 1 and 12 both define features of applying a computerized emulation algorithm to obtain a confocal emulated image based on cross-correlation information of a plurality of images taken at different angles. These features in combination with other features in claims 1 and 12, which are the broadest allowable claims, are not taught or suggested by the art of record.
- b. Claims 2 are 4-11 dependent upon claim 1.
- c. Claims 13-14 are dependent upon Claim 12.

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8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Dong et al, U.S. Patent No. 5,814,820, see column 4, line 54, 64-65, column 5, lines 15-20, column 6, lines 36-50.
- b. Edgar, U.S. Patent No. 4,360,885, see column 3, lines 49-50, column 4, lines 20-28, columns 7 and 8.
- c. Lee, U.S. Patent No. 5,594,235, see column 2, lines 34-42.
- d. Benjamin, U.S. Patent No. 5,647,018, see columns 4-7.
- e. Ooki et al, U.S. Patent No. 5,621,532, see columns 3-5.
- f. Satoshi Kawata, "Laser computed-tomography microscope", Applied Optics, Vol. 29, No. 26, Sept 1990, pages 3805-3809.
- g. Satoshi Kawata, "Three-dimensional transfer-function analysis of the tomographic capability of a confocal fluorescence microscope", Journal of Optical Society of America, Vol. 7, No. 3, March 1990, pages 522-526.

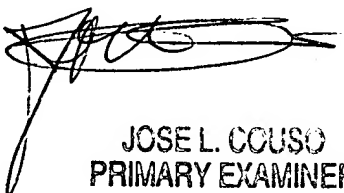
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Y. Lu whose telephone number is (571) 272-7393. The examiner can normally be reached on 8:30AM-5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tom Y. Lu



JOSE L. COUSO
PRIMARY EXAMINER